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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/645,073 05/13/96 YOSHIOKA

M 1046.1133/JD

EXAMINER

PM82/0901

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WASHINGTON DC 20001

GREGORY, B	
ART UNIT	PAPER NUMBER

3662

19

DATE MAILED:

09/01/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/645,073

Applicant(s)
Makoto Yoshioka et al

Examiner
Bernarr Earl Gregory

Group Art Unit
3662



☒ Responsive to communication(s) filed on 24 May 1999 and 30 July 1999

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three (3) month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-19 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☒ Claim(s) 1-8 is/are allowed.

☒ Claim(s) 9-19 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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1. In the remarks with Amendment E of 24 May 1999, it is noted that Applicants have argued the following points. With respect to claim 9, Applicants have argued that Grantz et al ('038) fails to show "a period concerning content" or a program to read the period, generate present time data, compare the present time data to the period data, and judge if the present time falls within the period. In response, it is pointed out that a period of permitted time of usage is present in Grantz et al ('038) which is compared with how much time has passed on the clock. So, the period of permitted use concerning the content is present. Grantz et al ('038) is implemented with software as is shown by Figure 4 of Grantz et al. ('038), so the reading of the period, the determination of the present time and the time of usage that have elapsed, the comparison of the time data for the time elapsed to the period of permitted use, and the judgement if the present time of usage has exceeded the period of permitted usage are all done in a program. The comment in the remarks on claim 9 that "content" can refer to more than software is not significant since Grantz et al ('038) protects a type of content. It is noted that Applicants apply the remarks with respect to claim 9 to claims 10, 12, and 15. So, the remarks hereinabove concerning 9 also cover claims 10, 12, and 15.

It is noted that Applicants have argued with respect to claim 13 that Grantz et al ('038) has nothing at all to do with the present time. In response, Grantz et al ('038) clearly deals with the present elapsed time of usage. In addition, please note the time stamping in Grantz et al ('038) and column 6, lines 5-11 where real time dates are used. This is also true with respect to claim 14.

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It is noted that Applicants have argued with respect to claim 14 that Grantz et al ('038) does not show a "center" of any kind. In response, there is nothing in claim 14 that necessitates that the "center" is exterior to the other structure as Applicants argue. The means that supply a key in Grantz et al ('038) read on the claim 14 "center."

It is noted that Applicants have argued with respect to dependent claim 11 that Grantz et al ('038) fails to show that the period data indicate the starting or ending time of the period. In response, inherently any data specifying an interval inherently specifies its own endpoints. For example, as soon as the use of the software starts in Grantz et al ('038) the end point is known as the point in time at which the permitted usage time interval ends. In addition, please note the time stamping in Grantz et al ('038) and column 6, lines 5-11 where real time dates are used.

It is noted that Applicants have failed to address the timer (e.g., items 430, 435, and 440 in Figure 4), the "date stamp" (e.g., item 460 in Figure 4), and the test as to the number of days that have passed (e.g., item 470 in Figure 4) in Grantz et al ('038) that were plainly pointed out in the rejection under 35 USC 102(e) in the prior Office Action. Please see 37 CFR 1.111(b).

Absent any clear and convincing reasoning of how claims 9-15 define over Grantz et al ('038), the rejection of record of claims 9-15 is maintained as repeated hereinbelow together with substantially the same rejection for newly-added claims 16-19.

2. Claims 1-8 are allowable over the prior art of record.
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

4. Claims 9-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Grantz et al (U.S. Patent 5,564,038).

Grantz et al (U.S. Patent 5,564,038) has a "trial period" that is measured; however, Grantz et al (U.S. Patent 5,564,038) uses a "date stamp" (e.g., item 460 in Figure 4) and a test as to the number of days that have passed (e.g., item 470 in Figure 4). Grantz et al (U.S. Patent 5,564,038) plainly has a timer (e.g., items 430, 435, and 440 in Figure 4). Please note column 6, lines 5-11 of Grantz et al (U.S. Patent 5,564,038) where real time dates are used.

With respect to newly-added claims 16-19, please note the use of computer software to implements the security test functions relating to time and access as shown by Figure 4 of Grantz et al (U.S. Patent 5,564,038).

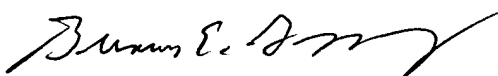
5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bernarr Gregory whose telephone number is (703) 306-5765. The Art Unit FAX number is (703) 306-4195.



Bernarr E. Gregory
Primary Examiner
Art Unit 3662

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August 31, 1999